

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Edward E. Kopko, Esq.
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Yaron Kweller

Plaintiff,

v.

THE COUNTY OF BROOME, THE CITY OF BINGHAMTON, THE BROOME COUNTY DISTRICT ATTORNEY'S OFFICE, DISTRICT ATTORNEY MICHAEL A. KORCHAK, CHIEF ASSISTANT DISTRICT ATTORNEY MARK LOUGHREN, ASSISTANT DISTRICT ATTORNEY ALYSSA CONGDON, ASSISTANT DISTRICT ATTORNEY AMANDA CRONIN, DISTRICT ATTORNEY INVESTIGATOR JEFF J. WAGNER, BINGHAMTON POLICE DEPARTMENT CHIEF JOSEPH ZIKUSKI, BINGHAMTON POLICE DEPARTMENT CAPTAIN CORY MINOR, BINGHAMTON POLICE DEPARTMENT INVESTIGATOR AMANDA MILLER, all in their individual capacities, and JOHN DOES 1-10, representing Broome County District Attorney's Office and Police Department Employees Whose Names Are Currently Unknown, HAILEY DEMKOVICH, and SAMANTHA HERCEG.,

Defendants.

Case No. 3:24-cv-01328-DNH-ML

**DEFENDANT HAILEY DEMKOVICH'S REPLY TO THE CROSSCLAIM OF
MICHAEL A. KORCHAK AND MARK LOUGHREN**

Defendant, Hailey Demkovich, by and through her Attorney, Edward E. Kopko, responds as follows to the Crossclaim of Defendants Loughran and Korchak:

1. DENIES the allegations contained in paragraph 324 of the Amended Answer and Crossclaim.

GENERAL DENIAL

2. Defendant Demkovich DENIES each and every allegation which is not admitted, denied, or otherwise responded to in this Reply and further Denies any allegation(s) that she is liable in any way to Defendants Loughran and Korchak.

FIRST AFFIRMATIVE DEFENSE

3. The crossclaim of Defendants Loughran and Korchak fails to state a cause of action upon which relief can be granted and should therefore be dismissed. The crossclaim contains only bare allegations of liability, without pleading facts giving rise to said liability, and does not adequately provide Defendant Demkovich with notice of the nature of the claim asserted against her. The crossclaim does not allow Defendant Demkovich to determine which of allegations in the underlying complaint that Defendants Loughran and Korchak base their claim for indemnity and contribution.

SECOND AFFIRMATIVE DEFENSE

4. Defendant Demkovich's conduct was at all times reasonable, proper, in good faith and in compliance with applicable law.

THIRD AFFIRMATIVE DEFENSE

5. To the extent that the damages, if any, sought by Defendants Loughran and Korchak through their crossclaim were caused or contributed to, in whole or in part, by intervening and superseding causative factors, the crossclaim brought against Defendant Demkovich should be barred.

FOURTH AFFIRMATIVE DEFENSE

6. The damages, if any, sought by Defendants Loughran and Korchak through their crossclaim were caused or brought about by the negligence of a third person or third persons over whom defendant Demkovich had no control and/or for whose acts she was not responsible.

FIFTH AFFIRMATIVE DEFENSE

7. Defendants Loughran and Korchak failed to mitigate their damages.

SIXTH AFFIRMATIVE DEFENSE

8. Defendant Demkovich is not a state actor and cannot be held liable for the alleged constitutional violations asserted by Plaintiff.

RESERVATION OF RIGHTS

9. Defendant Demkovich reserves her right to amend her Reply and supplement the foregoing defenses and raise additional defenses or to assert counterclaims or crossclaims, without waiver, which may become apparent through the course of this litigation to the fullest extent allowed by law or equity.

JURY DEMAND

10. Defendant Demkovich demands a trial by jury.

WHEREFORE, Defendant Demkovich prays for this Court to dismiss the Crossclaim of Defendants Loughran and Korchak asserted against her and award such other and further relief as the Court deems fair and proper and to the maximum extent permitted by law or equity.



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CERTIFICATE OF SERVICE

I hereby certify that on Wednesday, February 19, 2025, I caused the foregoing Reply of Hailey Demkovich to be filed with the CM/ECF system which sent notification of such filing to the following:

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